

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Acceleration of Broadband Deployment	)	WC Docket No. 11-59
Expanding the Reach and Reducing the Cost of	)	
Broadband Deployment by Improving Policies	)	
Regarding Public Rights of Way and Wireless	)	
Facilities Siting	)	

**COMMENTS OF THE CITY OF ALEXANDRIA, VIRGINIA**

The City of Alexandria, a municipal corporation of the Commonwealth of Virginia ("Alexandria"), files these comments in response to the Notice of Inquiry ("NOI"), released April 7, 2011, in the above-entitled proceeding. Through these comments, Alexandria seeks to provide the Commission with basic information regarding its local right-of-way and facility management practices and charges.<sup>1</sup> The Commission should not interfere with these local policies here. Alexandria has developed considerable expertise applying its policies to protect and further public safety, economic development, and other community interests. By adopting rules in this area, the Commission could disrupt this process at substantial cost to local taxpayers and to the local economy.

Alexandria has successfully managed its property to encourage deployment of several broadband networks to date. As a result, broadband service is available to any household or

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<sup>1</sup> We use the term "charges" to include both any cost recovery that is part of right-of-way and facility management (such as permitting fees), as well as other compensation we may receive from communications companies for use of the rights-of-way and other facilities consistent with state and local law.

resident of Alexandria. We are not aware that our policies or fees with respect to the placement of facilities in Alexandria's rights-of-way or on City property have discouraged broadband deployment. No company has cited our policies as a reason that it will not provide service. We believe our policies have helped to *avoid* problems and delays in broadband deployment by ensuring that network construction goes smoothly for both the providers who follow the rules and the larger community. For example, Comcast has constructed a fiber to the curb network that provides high speed Internet connections for Alexandria residents. On the other hand, we also know that many entities seeking access to our rights-of-way and facilities would prefer to live without rules or regulations, to the great detriment of other users, abutting landowners, commuters, and the general taxpayer.

In response to the NOI, Alexandria provides the following information:

**I. *Application Procedures, Forms, Substantive Requirements, and Charges.***

The Commission asks whether all necessary application procedures, forms, substantive requirements, and charges are readily available.<sup>2</sup>

The City applies the following right-of-way management and facility placement procedures. The City has enacted ordinances with procedures to be followed in utilizing public rights of way for private facilities, See Code of City of Alexandria §5-2-101, et seq, §5-3-1, et. seq. The Alexandria City Code is available on the City website at [www.alexandriava.gov](http://www.alexandriava.gov).

In addition, information about permitting procedures in the City is readily accessible from the City's website via [www.alexandriava.gov/tes/info](http://www.alexandriava.gov/tes/info). To facilitate the application process for providers to obtain a license agreement or franchise for use of the City's rights-of-way, Alexandria has a consultation process to assist companies who want to install fiber for

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<sup>2</sup> NOI ¶ 14.

telecommunications services, excluding cable television. The process is as follows. The applicant first meets with the City's Department of Transportation and Environmental Services engineering staff who review proposed construction methods (i.e. direct bore, trenching, etc.) proposed construction plans and maps to evaluate the proposed network construction and rights-of-way where the company wishes to install fiber. Company representatives also meet with an Assistant City Attorney to negotiate a license or a franchise agreement. The proposed agreement is then granted after a public hearing by the City Council. City Council's granting of a license or franchise agreement is governed by Virginia Code §15.2-2100.

Generally with regard to the deployment of fiber in the Alexandria, the City has adopted a "like for like" policy. In other words in those areas of the City where other companies have installed their facilities underground, the applicant must install its network underground. In areas of the City where facilities are aerial, the applicant may place its facilities aerial, unless its new service or the aerial lines create visual blight.

## II. *Sources of Delays.*

The Commission asks what factors are chiefly responsible to the extent applications are not processed in a timely fashion. The Commission also asks about errors or omissions in applications.<sup>3</sup>

In Alexandria most applications are processed quickly. However, there are instances where the company fails to identify with specificity the rights-of-way that will be used to deploy the network and/or submit incomplete application packages.

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<sup>3</sup> *Id.*

### *Improvements.*

The Commission asks whether there are particular practices that can improve processing.<sup>4</sup>

Alexandria has implemented a number of practices that have improved the permitting process. The City's permit fees and a general explanation of permitting procedures are available on the City's web site, as are the applicable City ordinances. The City also encourages joint trenching. When a license is approved for open trenching, the City by letter notifies other utilities, providers in the right-of-way so that all can avail themselves of the opportunity to install, repair, or increase fiber. Joint trenching alleviates disruption to the affect community, minimizes the disruption to traffic, and allows for efficient and economical street resurfacing and repairs.

### *Permitting Charges.*

The Commission seeks data "on current permitting charges, including all recurring and non-recurring charges, as well as any application, administrative, or processing fees." Specifically, the Commission asks commenters to identify:

- the type of facilities for which such charges are assessed;
- how such charges are structured (e.g., per foot or percent of revenue in the case of rights of way fees);
- whether the community is subject to comprehensive state franchising or rights-of way-laws;
- whether the charges are published in advance or individually negotiated, designed to approximate market rates or merely recover costs (direct and/or indirect), and accompanied by comprehensive terms, and conditions; and

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<sup>4</sup> NOI ¶¶ 14, 29.

- the value of any in-kind contributions required for access or permit approval.

The Commission further asks whether such charges are related to impacts on the local community, such as pavement restoration costs for projects that involve trenching in roadways.<sup>5</sup>

In Alexandria, rights-of-way fees for certificated providers are governed by Virginia Code §5-2-161 and Alexandria City Code §5-2-161. If the applicant who seeks to install fiber in the City's rights-of-way and is not a certificated provider of telecommunications services and therefore not subject to the above comprehensive rights-of-way fee, the City has negotiated in a per foot right of way license fee that is generally \$3.50 per linear foot. This fee has been applied and accepted across the board for all non-certificated providers of telecommunications service in the City. With respect to trenching the City's fee is \$100 per block for a 30-day period. These fees recover the expense of on-site inspections and staff time to review the permit application.

With respect to siting antennas on City property, staff negotiates agreements with annual payments based on square footage and electricity used and the number of antennas. Currently, antennae are installed on the roofs of two public buildings.

### III. *Local Policy Objectives.*

The Commission asks what "policy goals and other objectives" underlie the local practices and charges in this area.<sup>6</sup>

Alexandria's rights-of-way management policies are designed to facilitate and promote the deployment of services on a Citywide basis in a uniform manner. In addition, the City's policies are also designed to: (1) ensure the safety of the public; (2) minimize traffic disruption

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<sup>5</sup> NOI ¶ 17.

<sup>6</sup> NOI ¶ 22.

in one of the most traffic congested communities in the United States; (3) to ensure timely repair and resurfacing of its roadways; (4) prevent damage to private property and abutting properties; (5) minimize deterioration to roadways that result from street cuts; and (6) satisfy aesthetic, environmental and historic preservation concerns.

#### IV. *Possible Commission Actions.*

Finally, the Commission asks what actions the Commission might take in this area.<sup>7</sup>

As noted above, the City of Alexandria strongly urges the FCC to refrain from regulating local rights-of-way management and facility placement processes. These are highly fact-specific matters, which turn on local engineering practices, local environmental and historical conditions, local traffic and economic development patterns, and other significant community concerns and circumstances. These matters are best managed by local staffs that have considerable experience in the jurisdiction. Imposing a federal regulatory regime would create unnecessary costs for our community, and it would have the potential to undermine important local policies. Likewise, Commission regulation of charges for use of the rights-of-way could have significant impacts on the community, and may actually make it infeasible to continue to maintain or provide important public services. The City via Comcast of Virginia, Inc. (the City's telecommunications provider) has free Internet access at City facilities including but not limited to City offices, libraries, schools, recreation facilities, etc.

### CONCLUSION

The City of Alexandria respectfully urges the Commission to conclude that rights-of-way and facility management and charges are not impeding broadband deployment. As indicated

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<sup>7</sup> NOI ¶ 36.

above, in the City of Alexandria, our policies and procedures are designed to protect important local interests, and have done so for many years. There is no evidence that the policies have impaired any company from providing broadband service here, and there are many reasons to believe that federal regulations would prove costly and disruptive to our community.

Respectfully submitted,

*CITY OF ALEXANDRIA, a municipal  
Corporation for the Commonwealth of  
Virginia*

By: James L. Banks, Jr.  
City Attorney  
Karen S. Snow, Esq.  
Assistant City Attorney  
301 King Street, Suite 1300  
Alexandria, Virginia 22314

cc: National League of Cities, Bonavita@nlc.org  
National Association of Counties, jarnold@naco.org  
NATOA, straylor@natoa.org  
The United States Conference of Mayors, rthaniel@usmayors.org